

Senate Engrossed House Bill

FILED

**KEN BENNETT
SECRETARY OF STATE**

State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
2010

CHAPTER 212

HOUSE BILL 2255

AN ACT

AMENDING SECTIONS 33-2107, 33-2143 AND 33-2148, ARIZONA REVISED STATUTES;
RELATING TO RECREATIONAL VEHICLE LONG-TERM RENTAL AGREEMENTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 33-2107, Arizona Revised Statutes, is amended to
3 read:

4 33-2107. Utility fees; service interruption; waste, garbage and
5 rubbish removal fees; refunds; enforcement

6 A. A landlord may charge separately for gas, water or electricity by
7 doing either of the following:

8 1. Installing a submetering system.

9 2. Allocating the charges separately through a ratio utility billing
10 system.

11 B. If a landlord charges separately for gas, water or electricity by
12 installing a submetering system:

13 1. The landlord shall provide a separate meter for every user.

14 2. For each billing period the cost of the charges for the period
15 shall be separately stated, along with the opening and the closing meter
16 readings and the dates of the meter readings. Each bill shall show the
17 computation of the charge generally in accordance with the serving utility
18 company billing format for individual service supplied through a single
19 service meter.

20 3. The landlord shall not charge more than the prevailing basic
21 service single family residential rate charged by the serving utility or
22 provider AND ANY OTHER FEES AND TAXES IMPOSED ON THE LANDLORD BY THE PROVIDER
23 RELATING TO THIS RATE.

24 C. If a landlord charges separately for gas, water or electricity
25 pursuant to a ratio utility billing system:

26 1. The landlord may recover the charges imposed on the landlord by the
27 utility provider, except that a landlord shall not include a charge by the
28 supplying utility for gas, water or electricity used in a common area or
29 office if the common area or office is separately metered. The landlord
30 shall post in a conspicuous place on the premises the current ~~utility usage~~
31 ~~rate and other fees imposed on the landlord by the provider.~~ RATE UNDER WHICH
32 THE LANDLORD PAYS FOR THE UTILITY SERVICE, AS WELL AS THE EXPENSES INCLUDED
33 IN THE ADMINISTRATIVE FEE AND A STATEMENT THAT THE TOTAL ADMINISTRATIVE FEE
34 CHARGED IN THE AGGREGATE DOES NOT EXCEED TEN PER CENT OF THE LANDLORD'S TOTAL
35 CHARGE DURING THE BILLING PERIOD. FOR THE PURPOSES OF THIS PARAGRAPH,
36 "CHARGES" MEANS THE LANDLORD'S ACTUAL EXPENSE OF OBTAINING THE UTILITY,
37 INCLUDING THE TAXES AND FEES ASSESSED BY OR THROUGH THE UTILITY PROVIDER AND
38 IMPOSED ON THE LANDLORD BY THE UTILITY PROVIDER.

39 2. ~~A~~ THE landlord may charge an administrative fee for the landlord's
40 actual administrative costs. ~~only~~ ANY MONTHLY ADMINISTRATIVE FEE SHALL NOT
41 EXCEED THE GREATER OF THE LANDLORD'S ACTUAL ADMINISTRATIVE COSTS OR TEN PER
42 CENT OF THE MONTHLY CHARGES BY THE UTILITY PROVIDER IN THE AGGREGATE TO THE
43 LANDLORD. The landlord shall not impose any other additional charges. If
44 the landlord arranges for utility billings to be handled by a third party,
45 the utility billings shall INSTEAD include the actual and reasonable cost

1 charged by the third party for the service. THOSE THIRD PARTY CHARGES SHALL
2 NOT EXCEED TEN PER CENT OF THE MONTHLY CHARGES BY THE UTILITY PROVIDER FOR
3 THAT UTILITY IN THE AGGREGATE TO THE LANDLORD. For the purposes of this
4 paragraph, "administrative costs" includes the direct actual costs to the
5 landlord of billing for utilities, including the cost of staff time to
6 calculate and mail the bills, postage and stationery.

7 3. The rental agreement shall contain a disclosure that lists the
8 utility services that are charged separately CHARGED TO THE TENANT and shall
9 ~~specify the amount of any administrative fee that is associated with the use~~
10 ~~of the ratio utility billing system.~~ STATE THAT AN ADMINISTRATIVE FEE
11 COVERING THE LANDLORD'S ADMINISTRATIVE EXPENSES IN MAKING THE CALCULATIONS
12 UNDER THE RATIO UTILITY BILLING SYSTEM WILL ALSO BE ASSESSED. THE RENTAL
13 AGREEMENT ALSO SHALL STATE THAT TOTAL ADMINISTRATIVE FEES ASSESSED EACH
14 BILLING PERIOD SHALL NOT EXCEED TEN PER CENT OF THE LANDLORD'S TOTAL CHARGES
15 FOR THAT UTILITY PROVIDER.

16 4. Allocation shall be made on the basis of rented spaces.

17 D. A landlord that is also a mobile home park as defined in section
18 33-1409 shall comply with subsection A, paragraph 1 and subsection B of this
19 section.

20 E. The landlord shall provide a statement of proposed interruption of
21 utility service to the tenants within a reasonable time, except in the case
22 of an interruption caused by an emergency. An emergency does not include any
23 failure or refusal by the landlord to fulfill the duties and obligations to
24 maintain fit premises. A statement of proposed interruption of utility
25 service may be provided by posting an announcement of the period of the
26 interruption in a conspicuous place on the premises where a recreational
27 vehicle space is located or by individual delivery to each tenant.

28 F. For the purpose of regulating recreational vehicle parks as public
29 or consecutive water systems, the state shall not adopt rules pursuant to
30 title 49, chapter 2, article 9 that are more stringent than authorized by the
31 federal government. Submetering solely to determine the charges for
32 individual water use by park tenants for the purpose of water conservation,
33 without other evidence indicating a transaction subject to regulation under
34 title 49, chapter 2, article 9, shall not be used as a basis for treating any
35 recreational vehicle park as a public or consecutive water system.

36 G. A landlord may charge separately for removal of waste, garbage,
37 rubbish, refuse and trash and for sewer services. Any charges for removal or
38 sewer services shall not exceed the prevailing single family or residential
39 charge, fee or rate for these services levied by the political subdivision or
40 provider.

41 H. A landlord who determines, on the landlord's own or as a result of
42 a tenant objection, that the landlord has overcharged tenants shall refund
43 the overcharged amount to the tenants who were overcharged and who reside in
44 the recreational vehicle park at the time the overcharge is determined. The

1 refund shall be made through a credit toward future utility charges or a
2 refund and shall be provided within sixty days.

3 I. If a tenant believes that a landlord is not in compliance with this
4 section, the tenant shall provide written notice to the landlord regarding
5 the alleged violation of this section. If the dispute is not resolved within
6 thirty days after the notice is received by the landlord, the tenant may file
7 a civil complaint in justice court to enforce this section. In an action
8 pursuant to this subsection, the court shall award the prevailing party court
9 costs and reasonable attorney fees.

10 Sec. 2. Section 33-2143, Arizona Revised Statutes, is amended to read:

11 33-2143. Termination or nonrenewal of rental agreement by
12 landlord; noncompliance with rental agreement by
13 tenant; failure to pay rent; notice; damages;
14 definition

15 A. Except as provided in subsection F of this section, the landlord
16 shall specify the reason or reasons for the termination or nonrenewal of any
17 tenancy subject to this chapter. The reason or reasons relied on for the
18 termination or nonrenewal shall be stated in writing with specific facts, so
19 that the date, place and circumstances concerning the reason or reasons for
20 termination or nonrenewal can be determined. Reference to or recital of the
21 language of this chapter, or both, is not sufficient compliance with this
22 subsection.

23 B. Except as provided in subsection F of this section, the landlord
24 shall not terminate or refuse to renew a rental agreement without good cause.

25 C. The landlord's right to terminate or to refuse to renew a rental
26 agreement pursuant to subsection B of this section does not arise until the
27 landlord has complied with subsection D, E or F of this section.

28 D. Except as otherwise prohibited by law:

29 1. If there is a material noncompliance by the tenant with the rental
30 agreement, the landlord shall deliver a written notice to the tenant
31 specifying the acts and omissions constituting the breach and that the rental
32 agreement will terminate on a date not less than thirty days after receipt of
33 the notice if the breach is not remedied in fourteen days.

34 2. If there is a noncompliance by the tenant materially affecting
35 health and safety, the landlord may deliver a written notice to the tenant
36 specifying the acts and omissions constituting the breach and that the rental
37 agreement will terminate on a date not less than twenty days after receipt of
38 the notice if the breach is not remedied in ten days. If the breach is
39 remediable by repair or the payment of damages or otherwise, and the tenant
40 adequately remedies the breach before the date specified in the notice, the
41 rental agreement does not terminate.

42 3. If there is a noncompliance by the tenant that is both material and
43 irreparable, including an unlawful discharge of a weapon, prostitution as
44 defined in section 13-3211, the unlawful manufacture, sale, use, storage,
45 transfer or possession of a controlled substance as defined in section

1 13-3451, the infliction of serious bodily harm, assault as prescribed in
2 section 13-1203 or any other action that involves imminent serious property
3 damage, the landlord may deliver a written notice for immediate termination
4 of the rental agreement and proceed in a special detainer action pursuant to
5 section 33-1485.

6 4. If a tenant engages in repetitive conduct that is the subject of
7 notices under this subsection, after two incidents of the same type
8 documented by the landlord within a twelve month period or after receipt by
9 the landlord of two written complaints from other tenants about the
10 repetitive conduct within a twelve month period, the landlord may deliver a
11 written notice to the tenant specifying the repetitive conduct and the
12 documentation and advising the tenant that on documentation of the next
13 incident of the same type final notice will be given and the rental agreement
14 or tenancy will be terminated thirty days after the date of the notice.

15 5. If a tenant has been involved in three or more documented incidents
16 of conduct of any type described in this section within a twelve month
17 period, the landlord may deliver a written notice to the tenant specifying
18 the conduct and the documentation and advising the tenant that on
19 documentation of the next incident final notice will be given and the rental
20 agreement or tenancy will be terminated thirty days after the date of the
21 notice.

22 E. If rent is unpaid when due and the tenant fails to pay rent within
23 five days after written notice by the landlord of nonpayment and the
24 landlord's intention to terminate the rental agreement if the rent is not
25 paid within that period of time, the landlord may terminate the rental
26 agreement. Before judgment in an action brought by the landlord under this
27 subsection, the tenant may have the rental agreement reinstated by tendering
28 the past due but unpaid periodic rent, reasonable attorney fees incurred by
29 the landlord and court costs, if any.

30 F. EXCEPT FOR THOSE RECREATIONAL VEHICLES THAT ARE PARK TRAILERS AS
31 PRESCRIBED IN SECTION 33-2102, a landlord may refuse to renew a rental
32 agreement without good cause by serving written notice to the tenant at least
33 ninety days before the end of the rental agreement. In that event, the
34 tenant must vacate the premises on or before the end of the rental agreement.
35 FOR PARK TRAILERS ONLY, A LANDLORD MAY REFUSE TO RENEW OR MAY TERMINATE A
36 RENTAL AGREEMENT ONLY WITH GOOD CAUSE.

37 G. For the purposes of this section, "good cause" means:

- 38 1. Noncompliance with any provision of the rental agreement.
- 39 2. Nonpayment of rent.
- 40 3. Clear and convincing evidence that a tenant has repeatedly violated
41 this chapter and established a pattern of noncompliance with this chapter.
- 42 4. Change in use of land.

1 Sec. 3. Section 33-2148, Arizona Revised Statutes, is amended to read:
2 33-2148. Retaliatory conduct prohibited; eviction
3 A. Except as provided in this section, a landlord shall not retaliate
4 by increasing rent or decreasing services or by bringing or threatening to
5 bring an action for eviction after any of the following:
6 1. The tenant has complained to a governmental agency charged with
7 responsibility for enforcement of a building or housing code of a violation
8 that applies to the premises and that materially affects health and safety.
9 2. The tenant has complained to the landlord of a violation under this
10 chapter.
11 3. The tenant has organized or become a member of a tenants' union or
12 similar organization.
13 4. The tenant has filed an action SEEKING RELIEF PURSUANT TO SECTION
14 33-2107 OR HAS FILED ANY OTHER ACTION against the landlord in an appropriate
15 court.
16 B. If the landlord acts in violation of subsection A of this section,
17 the tenant is entitled to an amount equal to two months' periodic rent and
18 twice the actual damages sustained by the tenant and has a defense in action
19 against the landlord for eviction, unless the landlord proves good cause for
20 the landlord's action.
21 C. Notwithstanding subsections A and B of this section, a landlord may
22 bring an action for eviction if either of the following occurs:
23 1. The violation of an applicable building or housing code was caused
24 primarily by lack of reasonable care by the tenant or another person in the
25 tenant's household or who was on the premises with the tenant's consent.
26 2. The tenant is in default in rent. The filing of an action does not
27 release the landlord from liability pursuant to section 33-2141,
28 subsection B.

APPROVED BY THE GOVERNOR MAY 3, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 3, 2010.